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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/728,441

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Susan Levin

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26252 7590 09/04/2008
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EXAMINER

KRASNIC, BERNARD

ART UNIT

PAPER NUMBER

2624

MAIL DATE

DELIVERY MODE

09/04/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/728,441

Applicant(s)

LEVIN ET AL.

Examiner

BERNARD KRASNIC

Art Unit

2624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 June 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 8, 10, 11, 27 and 34-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 8, 10-11, 27 and 34-52 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. The amendment filed 6/04/2008 have been entered and made of record.
2. The Applicant has canceled claim(s) 9, 12-14, 17, 25, 26 and 28-33.
3. The Applicant has included newly added claim(s) 34-52.
4. The application has pending claim(s) 1-4, 8, 10-11, 27 and 34-52.
5. In response to the amendments filed on 6/04/2008:

The "Objections to the claims" have been entered and therefore the Examiner withdraws the objections to the claims.

The "Claim rejections under 35 U.S.C. 112, second paragraph" have been entered and therefore the Examiner withdraws the rejections under 35 U.S.C. 112, second paragraph.

6. The Applicant's arguments with respect to claims 1-4, 8, 10-11, 27 and 34-52 have been considered but are moot in view of the new ground(s) of rejection because the Applicant has amended independent claim(s) 1 and has incorporated newly added claims 38 and 47.

7. Applicant's arguments, see pages 11-15, filed 6/04/2008, with respect to the rejection(s) of claim(s) under 35 U.S.C. 112 2nd paragraph and 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejections have been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of amended claim limitations and the newly added claim limitations. The Applicant has not included where in the specification the amended claim limitations and the newly added claim limitations could be found and showed in no way that possession of such claim language is appropriate in terms of Written Description criteria [35 U.S.C. 112, 1st paragraph]. The Examiner has searched the specification and has not found any evidence that the application has support for claiming the specific steps of having the first and second manufacturers' associating one or more assigned identification codes with a first and second manufactured product [for example in claim 1; "the first manufacturer associating the one or more assigned identification codes with the first manufactured product; the second manufacturer associating the one or more assigned identification codes with the second manufactured product; and consumers of the first and second manufacturers' products utilizing the one or more identification codes to match and coordinate colors of the first and second products"]. The Applicant is advised to either amend the claims further or show the Examiner clear support in the specification for all the amended claim limitations and the newly added claim limitations with respective arguments showing and indicating that possession of such language is actually appropriate in terms of Written Description criteria [35 U.S.C. 112, 1st

paragraph]. Further discussions are addressed in the 35 U.S.C. 112 1st paragraph Written Description rejection below.

Due to the 35 U.S.C. 112 1st paragraph Written Description issue, the Examiner has not applied any new art rejection. Clarification by the Applicant or possible future amendments by the Applicant need to be first provided and submitted as discussed above.

Claim Rejections - 35 USC § 112

8. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

9. Claims 1-4, 8, 10-11, 27 and 34-52 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The Examiner has searched the specification and has not found any evidence that the application has support for claiming the specific steps of having the first and second manufacturers' associating one or more assigned identification codes with a first and second manufactured product; for example in amended independent claim 1 the claim limitation language "the first manufacturer associating the one or more assigned identification codes with the first manufactured product; the second manufacturer

associating the one or more assigned identification codes with the second manufactured product; and consumers of the first and second manufacturers' products utilizing the one or more identification codes to match and coordinate colors of the first and second products"; for example in newly added independent claim 38 the claim limitation language "the first and second manufacturers associating the assigned one or more color names or identification codes with the manufactured first and second products; and consumers of the first and second manufacturers' products utilizing the assigned one or more color names or identification codes to match and coordinate colors of the first and second products"; for example in newly added independent claim 47 the claim limitation language "the first and second manufacturers attaching a label to the first and second products or product packaging, the label including the assigned one or more color names or identification codes corresponding with the one or more colors of the manufactured first and second products, and indicia representing that the one or more color names or identification codes on the label has been approved by the governing body; consumers of the first and second manufacturers' first and second products utilizing the one or more color names or the identification codes to match and coordinate colors of the first and second products; and wherein consumers can match or coordinate colors of products not using identification codes assigned by the governing body with the first or second product having identification codes assigned by the governing body".

The Applicant is advised to either amend the claims further or show the Examiner clear support of possession in the specification for all the amended claim limitations and

the newly added claim limitations with respective arguments showing and indicating that possession of such claim language is actually appropriate in terms of Written Description criteria [35 U.S.C. 112, 1st paragraph].

Claims 2-4, 8, 10-11, 27 and 34-37 are dependent upon independent claim 1.

Claims 39-46 are dependent upon independent claim 38.

Claims 48-52 are dependent upon independent claim 47.

Appropriate correction is required.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bernard Krasnic whose telephone number is (571) 270-1357. The examiner can normally be reached on Mon-Thur 8:00am-4:00pm and every other Friday 8:00am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jingge Wu can be reached on (571) 272-7429. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bernard Krasnic
August 27, 2008

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/Samir A. Ahmed/

Supervisory Patent Examiner, Art Unit 2624